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8 Counsel for Defendant GUTIERREZ

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10 IN THE UNITED STATES DISTRICT COURT
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12 NORTHERN DISTRICT OF CALIFORNIA

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UNITED STATES OF AMERICA,)	No. CR 07-70411-RS
Plaintiff,)	
vs.)	DECLARATION OF FEDERAL
ALFONSO GUTIERREZ,)	PUBLIC DEFENDER
Defendant.)	INVESTIGATOR, DOUGLAS COLE
_____)		

I, DOUGLAS COLE, state and declare as follows:

1. I am an investigator for the Federal Public Defender, Northern District of California, San Jose Division. I have been a private investigator since 1975 and have been licensed as a private investigator by the State of California since 1980. I was chief investigator for the Santa Cruz County Public Defender from 1977 through 1983. In 1980, I began working for the Federal Public Defender on a contract basis. I have been a full-time investigator for the Federal Public Defender since August 1997.

2. I am informed that the criminal complaint in this matter alleges that Mr. Gutierrez was involved in a drive-by shooting on January 23, 2007. Based on my investigation described below, I have determined that Mr. Gutierrez was excluded as a suspect by the Monterey County District Attorney's Office based on documented evidence that he was at work at the time of the shooting.

3. I am also informed that AFPD Lara Vinnard has spoken with Monterey County Assistant District Attorney Rabow who stated that the attempted murder allegation was dropped based on a time card and surveillance video showing Mr. Gutierrez was at work at the time of the shooting.

4. In reference to this case, on July 12, 2007, at 6:30 p.m., I received a phone call from Scott Erdbacher, Attorney at Law. Mr. Erdbacher was the defendant's attorney in the Monterey County Superior Court Case No. SS070720b in which Mr. Gutierrez was originally charged with a violation of California Penal Code §664/187, attempted murder .

8 5. Mr. Erdbacher stated the PC §664/187, attempted murder charge, was dismissed and an
9 amended complaint was filed on May 15, 2007, reflecting this. Mr. Erdbacher stated Mr. Gutierrez
10 provided a video from his employment documenting he was not involved in the attempted murder.
11 Mr. Erdbacher can be reached at (831) 422-9606. His office is located at 21 W. Alisal Street, Civic
12 Center Building, Suite 100, Salinas, California.

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14 I declare under penalty of perjury the foregoing is true and correct to the best of my knowledge.
15 This declaration was signed in the city of San Jose, county of Santa Clara, California, on July 13,
16 2007.

/s/
DOUGLAS COLE